

W.M.P. No.27325 of 2019 in
W.P. No.9474 of 2019

M.DURAIWAMY, J.
and
T.V. THAMILSELVI, J.

(Order of the Court was made by **M. DURAIWAMY, J**)

The petitioners, who are third parties to the Writ Petition in W.P. No.9474 of 2019, have filed the above Miscellaneous Petition to grant leave to the petitioners to file an application for recalling the order dated 08.07.2019 made in W.P.No.9474 of 2019.

2. According to the petitioners, they are worshippers of the Temple, viz., Srinivasa Perumal and Veeramathiamman Deity situated in R.S.No.250 of Olagadam Village, Bhavani Taluk, Erode District, measuring an extent of 0.94.5 Ares and 0.70.0 Ares. Further, they have stated that they have filed a Civil Suit in O.S.No.215 of 2019 on the file of the Principal District Munsif Court, Bhavani for permanent injunction

restraining the first respondent-writ petitioner from interfering with their possession of the deity. Further, the petitioners have stated that the 4th respondent-Tahsildar had also issued notice under section 7 of the Tamil Nadu Land Encroachment Act and subsequently, passed an order under section 6 of the Act calling upon the petitioners to vacate and handover possession of the encroached land in R.S.No.250.

3. According to Mr. B. Kumarasamy, learned counsel appearing for the petitioners, as against the order passed by the Tahsildar, the petitioners have also filed an appeal under section 10 of the Act before the District Collector, Erode and the District Collector has also dismissed the appeal and aggrieved over the same, the petitioners have filed an appeal before the Land Commissioner under section 12 of the Land Encroachment Act. The learned counsel appearing for the petitioners submitted that in view of the order passed by this Court in W.P.No.9474 of 2019, the official respondents are taking steps to evict the petitioners from the property in dispute.

4. It is pertinent to note that the first respondent-Writ Petitioner had filed the Writ Petition in W.P.No.9474 of 2019 seeking for issuance of Writ of Mandamus directing the official respondents to consider the petitioner's representation dated 06.12.2018 and to remove the temple constructed in the cart track comprised in Survey No.250. This Court, by order dated 08.07.2019, disposed of the Writ Petition taking into consideration the counter affidavit filed by the third respondent, i.e., Thasildar, Bhavani Taluk, wherein it has been stated that all efforts have been taken by the officials to remove the encroachments, however due to the pendency of the present Writ Petition, the same was kept in abeyance. At the time of hearing the Writ Petition, the learned Government Pleader(i/c) submitted that the authorities would remove the said encroachments after issuing notice to all the concerned as expeditiously as possible. Recording the submission made by the learned Government Pleader (i/c), this Court, disposed of the Writ Petition.

5. On a reading of the order dated 08.07.2019, it is clear that we have only recorded the averments stated in the counter affidavit of the Thasildar

and also the submissions made by the learned Government Pleader(i/c) and disposed of the Writ Petition. In such case, the question of recalling the order dated 08.07.2019, does not arise. Hence, we are not inclined to grant leave to the petitioners to file an application for recalling the order dated 08.07.2019 made in W.P.No.9474 of 2019. The Miscellaneous Petition is liable to be dismissed. Accordingly, the Miscellaneous Petition is dismissed. However, it is open to the petitioners to prosecute the appeal pending before the The Land Commissioner, Chepauk, Chennai in accordance with law.



(M.D.,J.) (T.V.T.S.,J.)
03.02.2021

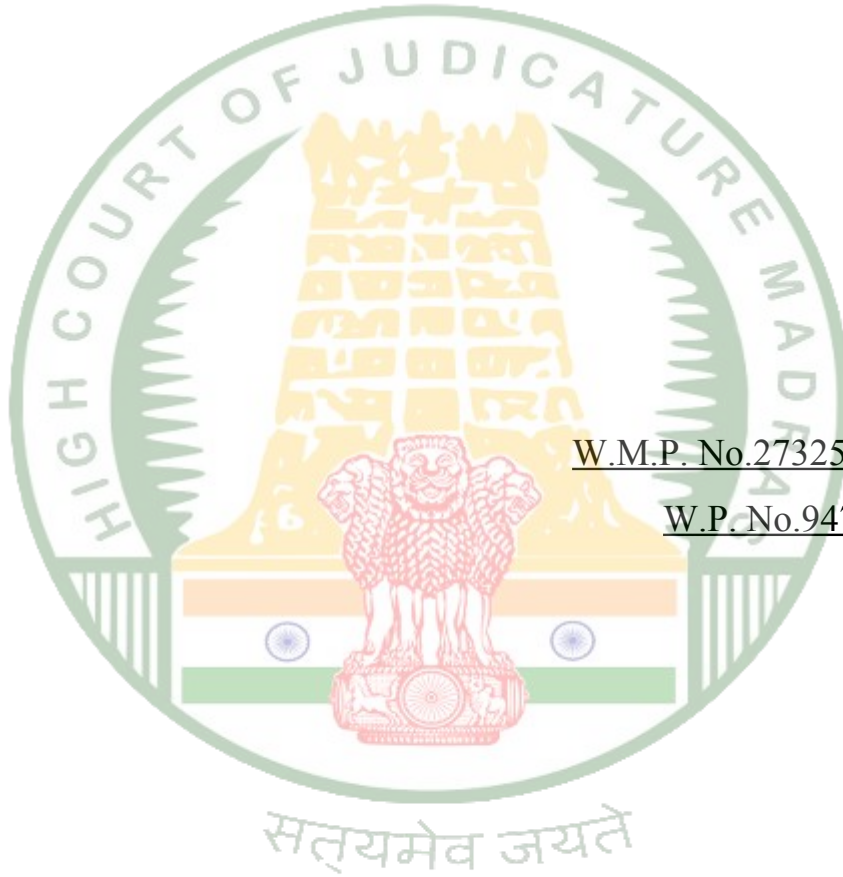
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